THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 25700 of 2007

DATED: 11-12-2007

Between:

Y.Govinda Raju andothers

…Petitioners

and

The District Collector,
East Godavari District and another

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 25700 of 2007

Oral order:

This writ petition is misconceived. It impeaches on merits the decision of the 1st respondent-Collector, dated 3-11-2007, rejecting the objections lodged by the petitioners to the acquisition of their land, in an enquiry under Section 5-A of the Land Acquisition Act, 1894 (for short 'the Act') while directing further process for the acquisition. Consequent of this decision of the 1st respondent, the State issued a declaration under Section 6 of the Act on 9-11-2007 proposing acquisition of the petitioners' land as per the earlier draft notification under Section 4(1) of the Act.

Inter alia, the petitioners' objected to the acquisition on the ground that out of a total extent of Ac.0-61 cents, he (the 2nd petitioner) proposed to gift an extent of Ac.0-25 cents to his daughter at the time of her marriage. The 1st respondent in the order under Section 5-A (2) of the Act recorded that the 2nd petitioner has got extents of Ac.0-46 cents, 0-38 cents and 0-07 cents in several survey numbers in the vicinity and that the acquisition of the proposed land is required for the purpose of providing house sites to the weaker sections. Similar inane objections by the other petitioners were repelled by the 1st respondent.

The learned counsel for the petitioners Sri Jagadish Chandra Prasad contends that the land proposed for acquisition is in a low lying area susceptible to water logging and therefore is not suitable for

house sites. If the area is low lying and susceptible to inundation, the respondent-State may either negligently construct houses there or on a rational planning may raise the level of the land and construct houses thereafter. The petitioners cannot be permitted to raise the bogey of unsuitability of the land to resist the lawful process of acquisition for a public purpose of providing house sites to the weaker sections of the society. The State action is neither patently unconstitutional nor illegal.

On acquisition of property under the provisions of the Act, persons whose lands are acquired are entitled to compensation at the market value, which is 100 per cent of the market value of the land. In addition, the provisions of the Act provide for solatium and additional market value. In all, the persons whose lands are acquired get compensation substantively in excess of the market value of the land. The apprehension of the learned counsel for the petitioners is that, since the value of the lands in the vicinity is undervalued for the purpose of avoiding payment of stamp duty and registration fee, the petitioners may not get adequate compensation for the acquired lands. Such unwholesome and gross illegal behaviour of citizens in general as is alleged cannot justify interdiction of land acquisition

It is not within the province of this Court to go into the wisdom of the acquisition. Once it is established that the acquisition is for a legitimate public purpose and that the procedures have been substantively followed; due opportunity has been accorded to the citizens whose lands have been proposed for acquisition, who have lodged their objections; and objections lodged have been rationally considered; the acquisition cannot be interdicted on a jejune ground of suitability or wisdom of the policy choice of the State.

On the aforesaid analysis, this Court discerns no justification for granting relief. The writ petition is accordingly dismissed. There shall be no order as to costs.

GODA RAGHURAM, J

11-12-2007
GRR